

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

Criminal Misc. Application No. 441 of 2006

1. Smt. Sohanviri W/o Virendar Singh
 2. Virendar Singh W/o Sahab Lal
 3. Kalu S/o Sitaram
 4. Azad S/o Sahab Lal
 5. Satpal @ Khanna S/o Lal Singh
 6. Yashpal S/o Sitaram
All R/o Village Tithki Kwadpur
Police Station Manglaur
District Haridwar
 7. Manjeet Traffic Constable
Posting at Haridwar
District Haridwar
 8. Gayan Chand R.I.
Tehsil – Roorkee
District Haridwar
- Applicants

Vs

1. State of Uttaranchal
 2. Additional Sessions Judge/IVth Fast Track Court
Haridwar, District Haridwar
 3. Civil Judge (J.D.)/Judicial Magistrate
Roorkee, District Haridwar
 4. Ompal S/o Sobharam
R/o Village Tithki Kwadpur
Police Station Manglour
District Haridwar
- Opp. Parties

Sri Rajendra Singh, learned counsel for the applicants
Learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the petitioners who have been summoned by the trial court to face the trial under Section 506, 395 I.P.C. The petitioners have thus prayed for quashing the entire proceedings of the Criminal Complaint Case No. 221 of 2004 Ompal Vs Sohanviri & others under Sections 506, 395 I.P.C. pending in the court of Civil Judge (J.D.)/Judicial Magistrate, Roorkee, District Haridwar.

2. Brief facts of the case are that a complaint was filed by the opposite party No. 2 against the petitioners under Sections 506, 395 I.P.C. The trial court after having been satisfied on the allegations made in the complaint as well as after perusal of the statement of the complainant and his witnesses passed an order dated 10.03.2005 summoning the petitioners to face trial under Sections 506, 395 I.P.C.

3. The order was challenged by way of revision and the revisional court also dismissed the revision vide order dated 18.03.2006.

4. Feeling aggrieved by the aforesaid order, this petition has been filed.

5. Heard Sri Rajendra Singh, learned counsel for the petitioners, learned A.G.A. and perused the record.

6. I do not find any abuse of process of the court and any serious miscarriage of justice in this case. I also do not find that any mandatory provision of law has not been complied with by the court below.

7. This Court while exercising the jurisdiction under Section 482 Cr.P.C. is not supposed to pre-judge the police papers and the discrepancies therein.

8. Mere fact that the complainant is guilty of malafides is no ground for quashing the proceedings specially when the allegations made in the complaint or in the F.I.R. make out a prima-facie case.

9. The points raised by the learned counsel for the petitioners are the disputed question of facts and it can be judged by the trial court where the evidence is yet to be collected. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage and any judgment delivered by me could amount to a premature decision in the case.

10. Therefore, the petition lacks merit and is liable to be dismissed.

11. Accordingly, the petitioner is dismissed.

(B.C. Kandpal, J.)

17.07. 2006
ASWAL